

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DIANA LOMORO,

Plaintiff,

v.

DAILY NEWS, L.P.,

Defendant.

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CIVIL ACTION

NO. 18-3229

ORDER

AND NOW, this ____8th____ day of March, 2019, upon consideration of Defendant Daily News, L.P.’s (“Defendant”) Motion to Dismiss (“Motion”) (Doc. 15), Plaintiff Diana Lomoro’s (“Plaintiff”) response thereto (Doc. 16), and Defendant’s Sur-Reply (Doc. 20), **IT IS HEREBY ORDERED AND DECREED** that Defendant’s Motion is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff’s Amended Complaint (Doc. 14) against Defendant is **DISMISSED WITH PREJUDICE**.ⁱ

BY THE COURT:

/s/ Petrese B. Tucker

Hon. Petrese B. Tucker, U.S.D.J.

ⁱ Under New Jersey law, to establish a defamation claim regarding a matter of public concern, a private plaintiff must prove: (1) a false and defamatory statement; (2) communication of the statement to a third party; and (3) actual malice on the part of the publisher. *Lee v. TMZ Prods Inc.*, 710 F. App’x. 551, 559–60 (3d Cir. 2017) (non-precedential). “To meet the actual malice standard, a plaintiff must plead ‘that the publisher knew the statement[s] to be false or acted in reckless disregard of [their] truth or falsity.’” *Id.* Here, Plaintiff has failed to plead actual malice on the part of the Defendant with respect to her defamation and false light claim. *Durando v. Nutley Sun*, 37 A.3d 449, 458 (N.J. 2012) (explaining that actual malice is an element of false light claims). This failure requires dismissal of Plaintiff’s claims.